is by necessary implication, in view of the federal statute as construed by the highest federal court, repealed so far as state banks are concerned by the act of the Legislature of 1902, although it may be in full force as to individuals. It is firmly established that the provisons of the National Banking Law, fixing the rate of interest which a national bank may take and determining the penalty to be imposed for taking a larger amount, supersede and are exclusive of the state laws relating to the subject. *Peterborough First Nat. Bank* v. *Childs,* 130 Mass. 519, 39 Am. Rep. 474; *Higley* v. *Beverly First National Bank,* 26 Ohio St. 75, 20 Am. Rep. 759; *Clarion First Nat. Bank* v. *Gruber,* 91 Pa. St. 377; *Wiley* v. *Starbuck,* 44 Ind. 298; *First Nat. Bank* v. *Grimes,* 49 Kan. 219, 30 Pac. 474; *Silva* v. *First Nat. Bank,* 10 Ky. L. Rep. 365; *First Nat. Bank* v. *McEntire,* 112 Ga. 232, 37 S. E. 381; *Farmers' & Mechanics Nat. Bank* v. *Dearing,* 91 U. S. 29, 23 L. ed. 196. While usury is a matter ordinarily within the police power of the state (COOLEY'S PRINCIPLES OF CONSTITUTIONAL LAW, 3rd Ed., p. 260), it is pointed out by the court that when that power is exercised in such a manner as to impede an "essential instrumentality in the prosecution of the fiscal operations of government * * * it must give way to the supreme power of the nation." *Easton* v. *Iowa,* 188 U. S. 220, 23 S. Ct. 288, 47 L. ed. 452.

BILLS AND NOTES—EXECUTION IN BLANK—STATUTORY PROVISIONS.—The defendants, with one Pothoven, who was a partner of one of them in a mercantile business, affixed their signatures as joint makers to the blank printed form of a promissory note, which was wrongfully filled out for a larger amount than authorized and delivered by Pothoven to the plaintiff, whom he named as payee, in satisfaction of his own personal account, instead of using it as authorized in the partnership business. The note was received by the plaintiff in good faith without notice that Pothoven had exceeded his authority. *Held,* that as the payee was not a "holder in due course" he could not recover. *Vander Ploeg* v. *Van Zuuk et al.* (1907), — Ia. —, 112 N. W. Rep. 807.

The negotiable instruments act (Acts 29th, Gen. Assem., p. 81, c. 130; Code Supp. 1902, § 3060a), Sec. 14, provides that, where an instrument is signed by a party in blank and delivered to another to be filled in and delivered to the payee, in order that it may be enforced when completed against any person who became a party thereto prior to its completion, it must be filled in strictly in accordance with the authority given, unless, after completion, "it is negotiated to a holder in due course," who may enforce it as if filled in strictly in accordance with the authority given. By § 52 of the same act a "holder in due course" is defined to be one who takes an instrument complete and regular, before maturity, "without notice that at the time it was negotiated to him there was any infirmity or defect in the title of the person negotiating it." The term "holder" is defined in § 191 as meaning "the payee or indorsee of a bill or note who is in possession of it, or the bearer thereof." From the above the conclusion was reached that the payee was a "holder" of the note but not a "holder in due course," since the latter term, in the language of the court, "seems unquestionably to be used to indi-

cate a person to whom, after completion and delivery the instrument has been negotiated." In other words, "that 'holder in due course' should be construed as applicable only to one who takes the instrument by negotiation from another who is a holder." While it is not decided that in no case can the person named as payee in a negotiable instrument be the holder thereof "in due course," yet the interpretation put upon the negotiable instruments act involves a change in the law as recognized before that act was passed. As pointed out by the court, it has always been regarded as a well settled principle of the law merchant that, where one intrusts an incomplete instrument to another, with authority to put the same in circulation as negotiable paper, he is bound to any one who relies in good faith on the genuineness of such instrument, although the party intrusted with completing and delivering the instrument exceeded his authority. *Bank* v. *Neal,* 22 How. (U. S.) 96; *Abbott* v. *Rose,* 62 Me. 194; *Johnson* v. *The Weed & Gumaer Manufacturing Co.,* 103 Wis. 291; *Van Duzer* v. *Howe,* 21 N. Y. 531; *Redlich* v. *Doll,* 54 N. Y. 234; *Gothrupt* v. *Williamson,* 61 Ind. 599; *Androscoggin Bank* v. *Kimball,* 10 Cush. (Mass.) 373; *Frank* v. *Lilienfeld,* 33 Gratt. (Va.) 377. The holder in such a case has a right to assume that the person to whom the instrument was intrusted did not exceed his authority, and is not chargeable with knowledge of any limitations upon that authority. *Geddes* v. *Blackmore,* 132 Ind. 551; *Simpson* v. *Bovard,* 74 Pa. St. 351; *Joseph* v. *First National Bank,* 17 Kan. 256; *Huntington* v. *Branch Bank,* 3 Ala. 186. A like interpretation was placed upon § 20 of the English bill of exchange act by LORD RUSSELL in the case of *Herdman* v. *Wheeler* [1902], 1 K. B. 361.

CONSTITUTIONAL LAW—INHERITANCE TAX—DUE PROCESS OF LAW.—A. executed deeds in the nature of marriage settlements, conveying certain real and personal property to trustees, in trust, to pay the income to his daughter D. for life, with remainder to her issue in fee; and giving her the power, in her discretion, to appoint the remainder "amongst her issue or heirs, in such manner and proportions as she may appoint by instrument in its nature testamentary, to be acknowledged by her as a deed, and in the presence of two witnesses, or published by her as a will." D. died, and by will she exercised the power of appointment in favor of the plaintiffs in error. The state of New York attempted to levy a transfer tax upon the interest appointed by D., under the Laws of N. Y., 1897, Chap. 284, which provide that when a person shall exercise a power of appointment derived from any disposition of property, such appointment shall be deemed a transfer, taxable in the same manner as though the property belonged absolutely to the donee of the power, and had been bequeathed or devised by such donee by will. Payment of the tax was resisted on the ground that the statute is unconstitutional because it deprives a person of property without due process of law, and because the reduction of the estate resulting from the imposition of the tax impairs contract obligations. *Held,* (1) that the tax is a transfer tax and, as such, within the taxing power of the state; (2) that no contract is impaired. (HOLMES and MOODY, JJ., dissent.) *Winthrop Astor Chanler, Thomas T. Sherman, as Committee for John Armstrong Chanler, et al.,* v.